

REMARKS

Applicant respectfully requests reconsideration and allowance of the subject application in view of the foregoing amendments and the following remarks.

Applicant amends Claims 1, 6, 19, and 31 to clarify claimed subject matter and/or correct informalities. The original specification and drawings support these claim amendments at least at pages 5, 6, 10, and at least in Figure 4. Therefore, these revisions introduce no new matter.

PREVIOUS CLAIMS OBJECTIONS AND REJECTIONS UNDER 35 USC §101 AND 103

Applicant appreciates Examiner's withdrawal of the objections and the 35 U.S.C. §101 and §103 rejections in the previous Office Action.

§ 112 SECOND PARAGRAPH REJECTIONS

Claims 1-4, 6-9, 11, 13, 15-29, 31-32, and 34-35 stand rejected under 35 U.S.C. § 112, as allegedly being indefinite. Applicant amends independent Claims 1, 6, 19, and 31 to clarify the subject matter. Dependent claims 2-4, 7-9, 11, 13, 15-18, 20-29, 32, and 34-35 depend from one of independent claims 1, 6, 19, and 31, respectively, and thus are allowable as depending from an allowable base claim. Applicant respectfully submits that these claims now comply with §112, and as a result the rejections are now moot. Applicant respectfully requests that the §112 rejection for the claims be withdrawn.

§ 103 REJECTIONS: A., B., C., D., E., F., AND G.

A. Claims 1, 6-9, 19, 24, 31, 32, 34, and 35 stand rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent Application Publication No. 2003/0016842 (Patton) in view of U.S. Patent Application Publication No. 2003/0110516 (Chang) and further in view of U.S. Patent No. 6,314,518 (Linnartz). Applicant respectfully traverses the rejection.

B. Claims 2 and 11 stand rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent Application Publication No. 2003/0016842 (Patton) in view of U.S. Patent Application Publication No. 2003/0110516 (Chang) in view of U.S. Patent No. 6,314,518 (Linnartz) and further in view of U.S. Patent No. 6,411,712 (Yoshida). Applicant respectfully traverses the rejection.

C. Claims 3, 4, 13, 15, 16, and 20-23 stand rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent Application Publication No. 2003/0016842 (Patton) in view of U.S. Patent Application Publication No. 2003/0110516 (Chang) in view of U.S. Patent No. 6,314,518 (Linnartz) in view of U.S. Patent No. 6,411,712 (Yoshida) and further in view of U.S. Patent Application Publication No. 2002/0080964 (Stone). Applicant respectfully traverses the rejection.

D. Claims 17 and 18 stand rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent Application Publication No. 2003/0016842 (Patton) in view of U.S. Patent Application Publication No. 2003/0110516 (Chang) in view of U.S. Patent No. 6,314,518 (Linnartz) in view of U.S. Patent No. 6,411,712 (Yoshida) in view of U.S. Patent Application Publication No. 2002/0080964 (Stone) and further in

view of U.S. Patent Application Publication No. 2003/0037010 (Schmelzer). Applicant respectfully traverses the rejection.

E. Claim 25 stands rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent Application Publication No. 2003/0016842 (Patton) in view of U.S. Patent Application Publication No. 2003/0110516 (Chang) in view of U.S. Patent No. 6,314,518 (Linnartz) and further in view of U.S. Patent Application Publication No. 2003/0165253 (Simpson). Applicant respectfully traverses the rejection.

F. Claims 26 and 27 stand rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent Application Publication No. 2003/0016842 (Patton) in view of U.S. Patent Application Publication No. 2003/0110516 (Chang) in view of U.S. Patent No. 6,314,518 (Linnartz) in view of U.S. Patent Application Publication No. 2003/0165253 (Simpson) and further in view of U.S. Patent Application Publication No. 2003/0037010 (Schmelzer). Applicant respectfully traverses the rejection.

G. Claims 28-29 stand rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent Application Publication No. 2003/0016842 (Patton) in view of U.S. Patent Application Publication No. 2003/0110516 (Chang) in view of U.S. Patent Application Publication No. 2003/0165253 (Simpson) in view of U.S. Patent No. 6,314,518 (Linnartz) in view of U.S. Patent Application Publication No. 2003/0037010 (Schmelzer) and further in view of in view of U.S. Patent Application Publication No. 2002/0080964 (Stone). Applicant respectfully traverses the rejection.

Without conceding the propriety of the stated rejections, and only to advance the prosecution of this application, Applicant amends **independent Claim 1**, to clarify further features of the subject matter. Amended Claim 1 now recites:

A method, comprising:
receiving video content to be protected from redistribution; adding
a personal identifier in the video content.
receiving metadata in a packet about the video content;
retaining the personal identifier on a hidden border of a frame on a
television monitor; and
displaying the personal identifier when the video content is
transferred to a computing device;
wherein the personal identifier displays information associated
with a user of the video content;
wherein **the personal identifier is placed on at least one of a
fixed number of frames or a fixed number of scanned analog video
content;**
wherein the personal identifier distinguishes channels to brand
and channels to leave unbranded, branded channels having a level of
security for a program;
**the metadata containing instructions associated with the video
content on which channels to brand; and**
**the metadata containing information to determine a branding
strength for the video content.**

Applicant respectfully submits that no such method for video content is disclosed, taught,
or suggested by Patton, Chang, the primary and secondary references, in all of the §103
rejections.

**Patton and Chang Fail to Disclose, Teach or Suggest Placement of Personal Identifier
and Branding of Channels**

First, Patton is directed towards a digital string that is provided by a purchaser to
a provider system of the valued content (Abstract). The embedded digitized image in
Patton represents valued content produced on the image as shown in FIGs. 6a and 6b.
The digital string contains information that places the purchaser at an increased financial
risk when known by another (para. [0030]). Nowhere is there any mention or discussion
of metadata or branding in Patton. Applicant submits that Patton fails to disclose, teach,
or suggest “receiving metadata in a packet about the video content; the personal

identifier distinguishes channels to brand and channels to leave unbranded, branded channels having a level of security for a program; the metadata containing instructions associated with the video content on which channels to brand; and the metadata containing information to determine a branding strength for the video content", as recited in Applicant's amended Claim 1.

Second, Applicant submits that Chang fails to compensate for the deficiencies of Patton. Chang is directed towards conveying information pertaining to broadcast content such that the system is robust and stripping or blocking data is difficult (Abstract). The non-VBI enhancement in Chang embeds an object, such as an image into the active video area of TV content (para. [0023]). Nowhere is there any discussion or mention of metadata or brand in Chang. While Chang mentions the object might be overscanned and not seen on the TV monitor (para. [0029]), there is no mention of "*receiving metadata in a packet about the video content; the personal identifier distinguishes channels to brand and channels to leave unbranded, branded channels having a level of security for a program; the metadata containing instructions associated with the video content on which channels to brand; and the metadata containing information to determine a branding strength for the video content", as recited in Applicant's amended Claim 1.*

Third, Linnartz fails to remedy the deficiencies of Patton and Chang. Linnartz is directed towards copy protecting MPEP compressed digital video and includes a control signal indicating the status (e.g. playback only, one generation of copy allowed, etc.) (Abstract). In Linnartz, the receiver device starts the playback via the external decoder, and the separate decoder communicates retrieved watermark information via a link to the playback device (Abstract).

Patton, Chang, and/or Linnartz, alone or in combination, do not disclose, teach or suggest “*receiving metadata in a packet about the video content; the personal identifier distinguishes channels to brand and channels to leave unbranded, branded channels having a level of security for a program; the metadata containing instructions associated with the video content on which channels to brand; and the metadata containing information to determine a branding strength for the video content*”, as recited in Applicant’s amended Claim 1. Applicant requests that the §103 rejections be withdrawn. Accordingly, Applicant submits that the evidence relied upon by the Office no longer supports the rejections made under §103.

No Reason to Modify or Combine References

A. Modification Renders Primary Reference Unsatisfactory for Intended Purpose

Fourth the MPEP states, “if proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification” (MPEP §2143.01 V.)

Applicant reviews the evidence and submits that the evidence no longer establishes a reason for one of ordinary skill in the art, to modify the system of Chang to include the content of Patton. For example, modifying Chang to include the latent valued content of Patton would render Chang unsatisfactory for its intended purpose. In particular, the system of Chang would be rendered unsatisfactory to convey information pertaining to broadcast content such that the system is robust and stripping or blocking data is difficult. Therefore, this modification presented would render Chang inoperable.

Thus, there is no evidence to modify the references, as the modification would render the Chang unsatisfactory for its intended purpose in conveying information pertaining to broadcast content. Applicant submits that the evidence relied upon by the Office does not support the rejections made under §103.

B. Insufficient Evidence to Suggest Reason Obviousness

Fifth, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness... KSR Int'l Corp. v. Teleflex, Inc., Slip Op. at 14 (U.S. Apr. 30, 20076) (quoting *In re Kahn*, 441 F.3d 977, 988 (CA Fed. 2006)). The Office stated it was obvious to "include the embedding information outside the safe area of a TV. That one of ordinary skill the art would have been motivated to perform such an addition to allow embedding important information in signals that do not degrade performance and also prevents data being lost in systems". Applicant respectfully disagrees and submits that the rejection for obviousness is not well reasoned, because there is nothing in either of the references to demonstrate one of ordinary skill in the art would suggest this reason.

Furthermore, there is no articulated reason with some rational underpinning to support this rejection. Instead, the asserted reason relies on hindsight without evidence of articulated reasoning to propose the suggested modification. This rejection is improper for this additional reason.

Independent Claims 6, 19, and 31 as amended, are directed towards a method, a branding engine, and a computer readable media, and each are allowable for reasons similar to those discussed above with respect to Claim 1.

Dependent Claims 2-4, 7-9, 11-13, 15-18, 20-30, 32, and 34-35 depend directly or indirectly from one of independent Claims 1, 6, 19, and 31, respectively, and thus are allowable as depending from an allowable base claim. These claims are also allowable for their own recited features that, in combination with those recited in Claims 1, 6, 19, and 31, respectively, are not disclosed, taught, or suggested by Patton, Chang, and/or Linnartz, alone or in combination.

B. Dependent Claims 2 and 11

Dependent Claims 2 and 11 recite in part “wherein the video content includes multiple programs.” Applicant respectfully submits that no such method for video content is disclosed, taught, or suggested by Patton, Chang, Linnartz, and/or Yoshida, alone or in combination.

As explained above with respect to the rejection under §103A, Applicant submits that Patton, Chang, and/or Linnartz fail to disclose, teach, or suggest the features of independent Claims 1 and 6. **Dependent Claims 2 and 11** depend directly from one of independent Claims 1 and 6, and are allowable by virtue of this dependency.

Applicant agrees with the Office that Patton does not explicitly teach where the video content includes multiple programs (Office Action, pg. 7). Rather, Yoshida is directed towards digital broadcast receivers for receiving broadcast signals transmitted from a transmitter, applying an operation specific to the received signal, encrypting the received signal, and providing the encrypted signal to another unit (Abstract). Yoshida talks about encryption for three program signals (col. 31, lines 31, 36-38). This is not the same as Applicant’s subject matter of adding a personal identifier in the video content.

The evidence for Yoshida indicates these are not the same features or functions as Applicant's Claims 2 and 11. These dependent claims are also allowable for their own recited features that, in combination with those recited in Claims 1 and 6, are not disclosed, taught, or suggested by Patton, Chang, Linnartz, and/or Yoshida, alone or in combination. Applicant respectfully requests the §103(a) rejection of these claims should be withdrawn.

Applicant respectfully submits that the cited references do not render the claimed subject matter obvious and that the claimed subject matter, therefore, patentably distinguishes over the cited references. For all of these reasons, Applicant respectfully requests the §103 rejection of these claims should be withdrawn.

Conclusion

Claims 1-4, 6-9, 11-13, 15-29, 31-32, and 34-35 are in condition for allowance. Applicant respectfully requests reconsideration and prompt allowance of the subject application. If any issue remains unresolved that would prevent allowance of this case, the Office is requested to contact the undersigned attorney to resolve the issue.

Respectfully Submitted,

Lee & Hayes, PLLC
421 W. Riverside Avenue, Suite 500
Spokane, WA 99201

Dated: 9-22-2008

By: Shirley Lee Anderson
Shirley Lee Anderson
Reg. No. 57,763
509.324.9256 ext. 258